

**REMARKS**

In the non-final Office Action mailed on November 29, 2004, the Examiner rejected claims 53, 54 and 56 under 35 U.S.C. § 103(a) as being unpatentable over European Patent Application No. EP 0 811 942 A2 to Cyber Media, Incorporated ("Cyber Media") in view of U.S. Patent No. 5,579,509 to Furtney et al. ("Furtney"); rejected claim 55 under 35 U.S.C. § 103(a) as being unpatentable over Cyber Media in view of Furtney and U.S. Patent No. 5,155,847 to Kirouac et al. ("Kirouac"); rejected claim 57 under 35 U.S.C. § 103(a) as being unpatentable over Cyber Media in view of Furtney and "Siebel Systems: Siebel announces production shipment of Siebel Enterprise Applications Version 3.0" by Siebel Systems ("Siebel Systems"); rejected claims 58 and 59 under 35 U.S.C. § 103(a) as being unpatentable over Cyber Media in view of Furtney and an entry in the Dictionary of Computing ("Dictionary"); and rejected claim 60 under 35 U.S.C. § 103(a) as being unpatentable over Cyber Media in view of Furtney, Dictionary, and Kirouac. In this response, Applicants amend claims 53 and 58 to more particularly point out and distinctly claim Applicants' invention. Support for the claim amendments are provided in the specification, particularly, page 9, line 26 – page 10, line 2. The amendments add no new matter. As a result, claims 53-60 are pending. Applicants respectfully traverse the Examiner's rejections. Further examination and review in view of the amendments and remarks provided below are respectfully requested.

Applicants' techniques are directed to building and distributing software version upgrade kits in a distributed computing environment. A client computer downloads a software version upgrade kit to upgrade software components of an installed software product. The downloaded software version upgrade kit contains all the files and commands, including an upgrade wizard, that are needed to install the proper version of the software components onto the client computer. Accordingly, an upgrade wizard is a standalone single executable that, when invoked, can read and apply an upgrade kit to the local client computer.

All of the claims stand rejected over Cyber Media in combination with one or more of Furtney, Kirouac, Siebel Systems, and Dictionary. Applicants respectfully traverse this rejection.

As amended, all of Applicants' claims include the common feature of an upgrade wizard that keeps track of the upgrade's progress and, if an error is detected during the upgrade, that automatically rolls back the changes and restores the client computer to a pre-upgrade state. In rejecting the claims, the Examiner indicated that Cyber Media's install monitor and recovery module corresponds to Applicants' upgrade wizard that keeps track of the upgrade's progress and which automatically recovers from errors. (page 6, line 49-page 7, line 21; page 11, lines 1-40; page 17, line 57-page 18, line 17). The Examiner concluded that Cyber Media "clearly installs and monitors the updates and recovers automatically based upon archive files when a user is dissatisfied or in 'error'."

Applicants respectfully disagree. Cyber Media does not disclose, suggest or teach an upgrade wizard that keeps track of the upgrade's progress and, if an error is detected during the upgrade, that automatically rolls back the changes and restores the client computer to a pre-upgrade state as recited. Instead, Cyber Media merely describes a service provider computer system that stores a list of software updates that are available from third-party vendors so that a client application executing on a client computer can be directed to the appropriate third-party vendor computer to obtain a desired software upgrade. According to Cyber Media, a client application executes an install monitor prior to actually installing the software update, and the install monitor records the changes made to the client computer as a result of the software update in order to allow the user to "undo" or remove the software update installation in response to an explicit command from the user to do so, after installation has been successfully completed. (emphasis added) (page 6, lines 49-53). The install monitor documents the state of the client computer prior to installation and the changes made during the installation of the software update to allow a recovery module to use the information to restore the configuration of the client computer. (page 11, lines 1-39). The recovery is an action initiated by the user when he or she is

dissatisfied with a software update, and the recovery module provides for undoing or de-installing previously installed software update. (emphasis added) (page 17, line 57-page 18, line 2). Thus, contrary to the Examiner's conclusion, in Cyber Media, the install monitor and the recovery module, which are distinct from the application program that is performing the application program update, work in conjunction to recover the client computer by uninstalling a previously installed application program update. Moreover, the recovery is a user-initiated action. This is in contrast to Applicants' upgrade wizard that keeps track of the upgrade's progress and, if an error is detected during the upgrade, that automatically rolls back the changes and restores the client computer to a pre-upgrade state. Applicants can find in Cyber Media no such disclosure or suggestion.

### **Conclusion**

In view of the foregoing, Applicants respectfully submit that claims 53-60 are allowable and ask that this application be passed to allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8000.

Dated:

2/24/05

Respectfully submitted,

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